

REMARKS

New claim 13 has been added, directed to the composition of claim 7, further comprising about 0.5 % to about 50 % of an emollient selected from the group consisting of esters, fatty acids, alcohols, polyols, and hydrocarbons. Support for this subject matter may be found at page 38, line 23 through page 39, line 20 of the Specification.

New Claim 14 has been added to depend from Claim 1 and claim the booster alpha-ionone (B1 booster). Support for this amendment is found throughout the Specification, and on pages 22 and 43 for example.

New Claim 15 has been added to depend from Claim 1 and claim an imidazole. Support for this amendment is found throughout the Specification, and on page 26 for example (B5 boosters).

Claims 1 and 7 have been amended to specify that the claimed retinoid boosters is a specific list that has been demonstrated in Examples 2-6 to provide acceptable retinoid stability at POV (peroxide value) of less than about 12. Support for this amendment may be found in the Tables on pages 35-36 of the Specification.

Care has been taken not to introduce any new matter.

The Present Invention

The present invention is directed to a combination of specified retinoids and specified retinoid boosters that are stabilized in a composition, wherein each

constituent of the oil phase of the oil-in water emulsion has a peroxide value (POV) of less than or equal to about 12, preferably less than or equal to about 6.

The present invention provides the dual benefit of enhancing retinoid conversion within the skin while increasing the stability of the retinoids by the removal of any starting materials having a POV of greater than 12, and preferably greater than 6.

Claim Rejections - 35 USC § 112

The Specification Provides Enablement for "Retinoid Boosters" As Generally Defined in the Specification, and As Specifically Claimed

Claims 1-2 and 7-8 were rejected under 35 U.S.C. 112, first paragraph, because the specification, according to the Office Action, while enabling for the particular compounds listed in tables B1-B5 of the specification, does not reasonably provide enablement for "retinoid boosters" in general.

While Applicants traverse this rejection, it is respectfully submitted that this rejection has been rendered moot by the claim amendments.

In the interest of progressing this patent application to issuance without delay, Applicants have amended the independent claims 1 and 7 to recite specific retinoid boosters. The claimed retinoid boosters is a specific list that has been demonstrated in Examples 2-6 to provide acceptable retinoid stability at POV (peroxide value) of less than or equal to about 12. Clearly, one skilled in the art would be able to make the invention commensurate in scope with the amended claims, as the specification teaches compositions with the specified retinoid boosters. These narrowing claim amendments significantly reduce the quantity of experimentation necessary for one

skilled in the art. As the amendment of independent claims 1 and 7 renders moot this rejection under 35 U.S.C. 112, first paragraph, it does the same for the dependent claims 2 and 8.

The Claims As Amended Particularly Point Out and Distinctly Claim the Subject Matter Which Applicants Regard as Their Invention

Claims 1-15 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

While Applicants respectfully traverse this rejection, it is respectfully submitted that this rejection has been rendered moot by the claim amendments. Independent claims 1 and 7, as amended, recite specific retinoid boosters, so that the claimed list of retinoid boosters is finite and clearly not indefinite.

Applicants respectfully submit that this rejection has been rendered *moot* by the clarifying claim amendments, which also applies to the dependent claims 2 and 8.

Claim Rejections - 35 USC § 103

Claims 1-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Granger et al. (USPN 5,716,627).

According to the Office Action, Granger et al. teaches a skin-conditioning composition comprising (a) retinol or retinyl ester, (b) azole (e.g. climbazole), (c) fatty acid amide (B1compounds), and (d) cosmetically acceptable vehicle.

The Office Action does not address an important limitation of the present claims, i.e. that each constituent of the oil phase of the oil-in water emulsion has a peroxide value of less than or equal to about 12, preferably less than or equal to about 6. Granger et al fail to disclose or suggest a POV. As such, a *prima facie* case of obviousness has not been made out.

Granger et al. do not address the problem to which the present invention is addressed, i.e., improvements in stability of retinoids achieved by controlling POV of each constituent of the oil phase of the oil-in-water emulsion, while increasing the effectiveness of the retinoids.

In view of the foregoing amendments and comments, Applicants request the Examiner to reconsider the rejections and now allow the claims.

Respectfully submitted,



Ellen Plotkin
Registration No. 36,636
Attorney for Applicant(s)

EP/dca
(201) 840-2253